

JUDGE'S PROCEDURAL RULES AND POLICIES

Workers' Compensation Automation and Integration System (WCAIS) is the official repository for all documents related to a Dispute (matter pending) before a Workers' Compensation Judge. All documents, including evidence and briefs, that would have been submitted to a Workers' Compensation Judge by mail or in person prior to WCAIS should now be uploaded into WCAIS. If Social Security numbers appear on any such document, they should be completely redacted before the document is uploaded, unless otherwise specified below. All communications with the Judge, including but not limited to requests, should be submitted through WCAIS unless otherwise specified by the Judge.

HEARING PROCEDURES

1. What is the first event and what will occur?

The initial event will be a modified pretrial hearing for 20 minutes by Teams. Very little, if any, testimony will be presented at the modified pretrial hearing. The scheduling of Claimant's testimony will be discussed at the hearing. Except for unusual circumstances, Claimant and other substantive witness testimony is expected to be in person (live). If counsel wish to forego the modified pretrial hearing and scheduled for a live hearing off the bat, please upload a request in WCAIS. Please specify how much time is anticipated for such an in person hearing.

The only exceptions are first hearings on Employee Challenges or a Termination Petitions based upon a Physician's Affidavit of Recovery for an examination that occurred within 21 days of filing. In those situations, a 30 minute Teams hearing will be scheduled.

Exhibits previously uploaded through WCAIS will be identified at the hearing and the parties will be asked if there are any objections to the proposed exhibits.

a. List any documents required at the first event:

I expect that the moving party would offer any medical reports/records in support of its position. Also, while not required, a First Hearing Submission is appreciated.

b. Should documents be uploaded as Exhibits or Letters to the Judge?

Exhibits

2. Describe the format of your hearings (e.g., serial, one day – one trial).

I conduct serial hearings. Generally, I prefer Claimant's testimony be presented at the first (non-pretrial) hearing unless the facts germane to the petition are not in contest.

Defense lay testimony will be presented at a later hearing. Unless the parties request otherwise, Defense lay testimony is generally presented after a Mediation has been conducted.

Claimant can testify again at a subsequent hearing, including the final hearing. After Claimant testifies initially, later testimony can be virtual in most situations.

3. Are you willing to change the hearing format upon request?

Yes.

4. What factors will you consider in deciding whether to conduct a hearing in-person?

As noted above, Claimant's testimony and other substantive lay testimony is expected to be in person. (Claimants follow up testimony after the initial direct and cross examination can generally be offered virtually unless Claimant has problems with testifying by web-based video.) However, just as pre-pandemic, exceptions can be made where Claimant or other witness live out of state, one or more of the litigants have health difficulties, etc. Status hearings will generally be virtual.

5. What factors will you consider in deciding whether to conduct a virtual hearing by audio only or by audio with video?

I do not like to have a witness testify by audio only except in unusual circumstances. I will allow telephonic hearings where a party or attorney has problems accessing Teams or where it is a status hearing.

6. What procedure do you follow if a party fails to appear at a hearing?

It depends if it is the first of a subsequent hearing. If it is a first hearing that involves a petition where there is a request for supersedeas and Claimant fails to appear, or have counsel present, or contact my office with a valid excuse, I generally will issue an Interlocutory Order encouraging Claimant to obtain the assistance of counsel and setting a time limit for Claimant to respond to the supersedeas request by sending me any written statements, medical records, or other exhibits in response to the supersedeas request. I will also attach a notice that generally explains the process and Claimant's right to have counsel. If Claimant fails to respond within the specified period, I will then grant the supersedeas if Employer's exhibits support the granting of the request. That Order will also refer to the scheduling of a further hearing in the Dispute. In all other first hearings where a party fails to attend, I will send a letter to the Claimant or Employer or issue an Interlocutory Order advising them that their rights may be affected and encouraging them to obtain counsel.

7. Do you have special procedures for psychological injury cases?

Yes, I prefer that Claimants asserting a psychological injury or a concussion to testify in person.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

Claimant may testify and I will consider any medical exhibits and statements. I will defer ruling upon a request for supersedeas until after the first evidentiary hearing if the parties consent.

a. Will testimony be heard?

Yes, except at the modified pretrial hearing where testimony will be permitted depending upon whether there is sufficient time. Most of the time where Claimant wishes to testify in opposition to the request for supersedeas, the ruling is deferred until after the first evidentiary hearing.

b. Is additional time generally granted to obtain medical evidence?

Yes, I usually grant up to 14 days for the submission of exhibits to be considered in ruling upon a supersedeas request. The main exception is where the ruling on the request is deferred until the first evidentiary hearing. In that situation, the parties are expected to offer prior to the first evidentiary hearing whatever exhibits they wish to be considered in ruling upon the request.

c. Under what circumstances will you reconsider a supersedeas order?

If there is additional relevant evidence that was only obtained after the supersedeas order was issued, if either party had not had an adequate opportunity to question Claimant at the initial hearing, or if there is some mistake noted in the original supersedeas order.

d. Do you generally use written orders for denials?

Yes.

e. What is required for employee's counsel to obtain interim fee approval?

The denial of supersedeas and a fee agreement that provides for a fee to be awarded in a supersedeas setting.

f. Describe any other procedures for supersedeas hearings:

N/a

g. Describe procedures for special supersedeas hearings, if different:

The only difference is that Claimant will be permitted to testify and the ruling is not deferred to a subsequent hearing.

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony?

I prefer lay testimony at hearings and expert testimony by deposition. All transcripts of witnesses testifying outside of the hearing should be uploaded in “native” pdf format.

2. Do you require testimony at a virtual hearing, an in-person hearing, or by deposition?

At first evidentiary hearings on Claimant-filed petitions, I generally require testimony from Claimant regardless of the medium, though I prefer in person. If there is a critical credibility issue I prefer other witnesses to testify in person. I will allow testimony virtually or by telephone also.

3. Under what circumstances will you change your requirements for presentation of testimony?

I am flexible given the unusual times in which we live in determining the medium in which a witness will testify.

4. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice? I prefer prior notice. If yes, how much notice do you require? As soon as possible. I generally schedule the date and duration of the next hearing shortly after the close of the preceding hearing based upon what was said at the hearing. If the matter is only scheduled for a 20 minute status hearing and counsel later determines that s/he will be calling a witness, counsel should upload a request for a continuance (after consulting with opposing counsel) to have the hearing rescheduled where there will be sufficient time for the witness to testify.

5. What is your procedure regarding the order of expert medical testimony when cross petitions are filed?

That is a matter that depends on which petitions were filed and the timing of the petitions. It is a matter better discussed at the first hearing.

6. Do the parties need to upload the Bureau and WCOA documents as exhibits or will you admit them electronically as Judge exhibits?

I generally upload all Bureau and WCOA documents that I believe are relevant as exhibits. However, parties are free to upload other Bureau or WCOA documents that they believe are relevant. Furthermore, if a “Bureau document” was never submitted to the Bureau, I would not have access to it and rely upon the parties to upload.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? Before. If before, how far in advance of the hearing must they be uploaded? At least the day before the hearing and earlier if possible.

While I do accept exhibits offered on the day of the hearing, it can create issues and confusion that would have been avoided if uploaded timely. I therefore strongly prefer that exhibits not be uploaded on the date of the hearing.

8. When will you rule on objections to exhibits?

At the beginning of the next hearing after which the exhibit is offered. However, because of confusion that can arise when exhibits are uploaded on the date of the hearing, the admissibility of the exhibits may not be addressed until the beginning of the following hearing.

9. What is your procedure for handling discovery disputes?

Upload a request for a conference call in which counsel specifies the nature of the discovery dispute. I will schedule a conference call, normally on the record, and may request exhibits or memos of law before or after the conference.

10. What is the last day to file written preservations of deposition objections?

Preferably, counsel should file such objections before the hearing following receipt of the deposition transcript so that I can rule upon and give opposing counsel time to react if the objection is sustained. However, I will allow such preservations to be filed as late as the time that counsel files his or her closing written argument, but would request a written explanation as to why it was not submitted earlier.

COMPROMISE & RELEASES (C&Rs)

1. Describe your procedures regarding the review of C&R Agreements:

I prefer that at least a draft copy of the Agreement be provided as an exhibit or as correspondence at least 24 hours prior to the hearing.

a. Are you willing to allow amendments of existing petitions or do you require the filing of a separate Petition Seeking Approval of a C&R Agreement?

An existing petition can be amended. The only exception is if the parties preserve one or more petitions for post-C&R adjudication. In that case unless there is one petition that is not going to decision, I require the filing of a Petition to Seek Approval.

b. Are parties required to provide a draft of the C&R Agreement before the hearing? If yes, how far in advance of the hearing do you need to receive it?

Yes. As noted, I prefer that the draft or final agreement be uploaded at least 24 hours prior to the hearing.

c. Should the parties upload the signed C&R Agreement, including the fee agreement and any other attachments, before or after the hearing?

Most C&R hearings will be virtual. If virtual, a copy of the Agreement must be uploaded prior to the hearing.

However, if the hearing is held live, the parties may submit the Agreement at the time of the hearing.

d. Should child support documents be uploaded as a separate exhibit?

Yes. Both a redacted and unredacted copy of the Act 109 documents should be submitted as exhibits prior to the hearing. (I will delete the unredacted copy shortly after the hearing.)

e. **Should Social Security numbers and other confidential information be redacted from the C&R Agreement and Act 109 documents?**

Yes, as to the C&R Agreement and the redacted copy of the Act 109 documents. No as to the unredacted copy of the Act 109 documents. Unredacted copies of the Act 109 documents offered as exhibits will be deleted after the hearing.

f. **Will you sign bench orders?**

No.

g. **Describe any other procedures you have for C&R Agreements:**

N/a

STIPULATIONS RESOLVING DISPUTES

1. What are your usual procedures regarding the submission, review, and adoption of stipulations?

Any such Stipulation should be signed by the attorneys and Claimant and uploaded to WCAIS or presented at a live hearing

2. Should the fee agreement be part of the stipulation or separate exhibit?

A fee agreement should be offered separately because the Stipulation will be attached to the Decision and Order.

3. Should child support documents be uploaded as a separate exhibit?

Yes. Again both a redacted and unredacted copy should be submitted. After I have reviewed the Stipulation and find it to be acceptable, I will delete the unredacted copy.

4. What other exhibits should be uploaded (i.e. medical bills, etc.)?

If the parties desire that copies of medical bills and liens be made part of the record, those exhibits should generally be submitted as separate exhibits referenced in the Stipulation. This is because the Stipulation will be attached to the Decision and Order.

5. Should other exhibits uploaded as be part of the stipulation or as separate exhibits?

As noted above, most additional documents should be submitted as separate exhibits. The rule of thumb is that if you do not want it attached to a Decision and Order that may become part of the public domain, do not attach it to the Stipulation.

6. When should Social Security numbers and other confidential information be redacted from the stipulation and Act 109 documents?

There is no reason that a Social Security number should be part of a Stipulation. As noted above, both unredacted and redacted copies of the Act 109 documents should be uploaded. I will delete any unredacted copy submitted as an exhibit prior to circulation of the Decision and Order.

7. Describe any other procedures you have for stipulations:

The only other thing that I ask is if counsel would submit a request through WCAIS for me to issue a Decision and Order if the Stipulation is submitted after a hearing. I ask this as a back up to make sure that I do not overlook the submission of the Stipulation in the horde of exhibits offered in all of the cases pending before me.

BRIEFS AND PROPOSED FINDINGS

1. Will you close a case via WCAIS submission or is a final hearing required?

Generally a final hearing is required.

2. What are the time requirements for final submissions and what procedures are taken when time requirements are not met?

The time period for filing of closing written argument will be discussed usually at the final hearing . If such a submission is late, I generally contact counsel and will grant an extension the first time it is late.

3. Describe any preferences regarding the format and content of final submissions:

Parties can submit briefs or Proposed Findings. However, if it is a post-C&R decision, I want Proposed Findings. However, I ask that all briefs or Proposed Findings be submitted as a “native” pdf file. (The latter can be created by opening the Word document and then “save as” a pdf document.)

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations:

Greensburg

2. What factors will you consider in deciding whether to conduct a mandatory mediation virtually or in-person?

Currently, mediations will be scheduled to be held virtually. Upon request made through WCAIS, I will entertain requests for in person mediations

3. What factors will you consider in deciding whether to conduct a virtual mandatory mediation by audio only or by audio with video?

I prefer virtual mediations by video. I will permit an injured worker to participate by audio only for good cause shown. However, for a follow up mediation conference call, counsel can participate by phone.

4. Are you willing to allow counsel or a party to participate virtually in an in-person mandatory mediation? If so, under what circumstances?

I prefer that both parties either be present in person or both participate virtually. I will entertain requests for one party to be virtual and the other in person upon good cause shown.

5. Do you require a Mediation Statement? Yes If yes:

a. What information do you require in that Statement?

You can use the mediation form that I had generated or that of another WCJ However, I do not mind if counsel submit a letter instead outlining the case, the settlement negotiations, and their position.

b. What documents, if any, must accompany the Statement?

None are required.

c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

Two days.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? Upon request. If so, how long until it is rescheduled? Depends upon available slots in my mediation schedule.

7. Are you willing to conduct more than one mandatory mediation session per Dispute?

Yes.

8. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

I very much prefer that such requests be made at least 3 days before the scheduled mediation date. However, I do recognize that extenuating circumstances can lead to later requests.

9. What else should the parties know or do before the mediation?

None.

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes.

2. How should the parties request a Voluntary Mediation?

Via WCAIS request or through the trial WCJ at a hearing.

3. List the locations where you conduct in-person voluntary mediations:

Greensburg.

4. Will you conduct virtual voluntary mediations? If yes, for which WCOA Districts will you conduct them?

Generally, the Western District.

5. Do you mediate Disputes assigned to you for hearing and decision?

Very, very rarely in exceptional situations upon substantial good cause shown.

6. Do you mediate Disputes in which one or both parties are unrepresented? If yes, describe any special procedures you have for such cases:

Yes, I will conduct a mediation where one party is unrepresented. I would be more receptive to conducting such a mediation in person.

7. What factors will you consider in deciding whether to conduct a voluntary mediation virtually or in-person?

Most mediations will be scheduled virtually. If one party is unrepresented, that is a strong basis for requesting an in person mediation. In all other circumstances, I will consider conducting an in person mediation upon request

8. What factors will you consider in deciding whether to conduct a virtual voluntary mediation by audio only or by audio with video?

9. I prefer virtual mediations by video. I will permit an injured worker to participate by audio only for good cause shown. However, for a follow up mediation conference call, counsel can participate by phone.

10. Are you willing to allow counsel or a party to participate virtually in an in-person voluntary mediation? If so, under what circumstances?

I prefer that both parties either be present in person or both participate virtually. I will entertain requests for one party to be virtual and the other in person upon good cause shown.

11. Do you require a Mediation Statement? Yes If yes:

a. What information do you require in that Statement?

12. You can use the mediation form that I had generated or that of another WCJ However, I do not mind if counsel submit a letter instead outlining the case, the settlement negotiations, and their position.

a. What documents, if any, must accompany the Statement?

If the matter is not already in litigation, please attach copies of all relevant Bureau documents. Also, copies of any medical narrative reports should be attached.

b. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

Two days.

13. After you approve a Voluntary Mediation Request, how long until it is scheduled?

Depends upon my mediation schedule.

14. Are you willing to conduct more than one voluntary mediation session per Dispute?

Yes.

15. If the party wants to request cancellation or postponement of a voluntary mediation on a Dispute assigned to you, should they contact you or the mediating Judge?

Mediating judge.

16. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

I prefer that such requests be made at least 3 days before the scheduled mediation date. However, I do recognize that extenuating circumstances can lead to later requests.

17. What else should the parties know or do before the mediation?

N/a

REQUESTS/MISCELLANEOUS

1. How far in advance do you require Requests for continuances, changes in hearing times, and extensions to be uploaded into WCAIS?

For continuances, I prefer that any such request be made at least 10 days in advance though I will consider later requests upon good cause shown. For change in hearing times, that can be made even on the hearing date through my assistant. However, if you wait until the day of the hearing to request that the time be changed, you run the risk of not reaching my assistant if she is busy with other matters. Therefore, it is better to make any requests for change in the time of the hearing by the day before the hearing.

2. Under what circumstances do you conduct off the record conference calls?

Generally, if some sensitive matter is to be discussed for which both parties prefer it be off the record. Also, upon request of the parties for good cause.

3. Under what conditions/circumstances do you accept e-mails from parties?

In response to any emails that I may send. Otherwise, only in exceptional circumstances.

4. Do you adhere strictly to the duration listed for a Hearing or Mediation?

I try to keep on schedule, but will sometimes allow the hearing or mediation to go over the time duration listed.

5. What is the best way to contact you in an emergency situation?

Through my assistant. However, if you cannot reach her then by email.

6. What is your snow/emergency cancellation policy regarding in-person and virtual events (i.e., do you follow a specific school district closing schedule, etc.)?

For in person events, we follow the Greensburg-Salem School District closure decision for snow or inclement weather. However, where an impending storm is known sufficiently in advance, most in person events will be switched to virtual events. Additional guidance on this issue will be published by WCOA.